



The Committee on Energy and Commerce

Majority Memorandum

March 9, 2011

MEMORANDUM

To: Members, Subcommittee on Energy and Power
Members, Subcommittee on Environment and the Economy

From: Committee Staff

Subject: Hearing on the Fiscal Year 2012 Proposed Budget of the U.S. Environmental Protection Agency (EPA)

On Friday, March 11, 2011, at 10:00 a.m. in 2123 of the Rayburn House Office Building, the Subcommittees on Energy and Power and on Environment and the Economy will hold a joint oversight hearing on EPA's proposed budget for fiscal year 2012. EPA Administrator Lisa P. Jackson will be the sole witness for this hearing. Should you have any questions, please contact David McCarthy or Mary Neumayr at 5-2927.

BACKGROUND

The President's *Budget of the United States Government* is required by law to be submitted to Congress each year no later than the first Monday in February. This proposed budget, which includes EPA's budget proposal, consists of estimates of spending, revenues, borrowing, and debt; policy and legislative recommendations; detailed estimates of the financial operations of federal agencies and programs; data on the actual and projected performance of the economy; and other information supporting the President's recommendations.

On February 14, 2011, the President submitted his proposed budget for fiscal year 2012, requesting \$8.973 billion for the EPA. Funding for climate change, air quality programs, drinking water system compliance, cleanup of hazardous waste sites within the Superfund account, scientific research that underpins regulatory decision-making, homeland security activities, and air quality programs are issues within the Committee's jurisdiction that have received the most attention. Below are some key areas where the funding has been proposed for these programs, as well as some supplemental charts that further break down these areas.

Key Proposed Funding Levels and Policies

Greenhouse Gases and Air Quality. For fiscal year 2012, the President is proposing \$1.13 billion for development and implementation of Greenhouse Gas (GHG) and other Clean Air Act standards and programs. For addressing climate change, in particular, the budget seeks \$252.8 million, which represents increased spending of approximately \$56 million over levels enacted in fiscal year 2010. Below are some specific examples:

- The President's budget requests \$30 million for Clean Air Act GHG Permitting in fiscal year 2012, an increase of \$30 million over fiscal year 2010 to support states in developing and deploying the technical

capacity needed to address GHG emissions in permitting large sources as part of their Clean Air Act programs.

- Additionally, the President's budget requests increased funding of \$7.6 million in fiscal year 2012 to fund the assessment, and potential development, of additional GHG regulations that set GHG limits for several categories of major stationary sources of GHGs. The President has also proposed funding to implement the GHG Reporting Rule of \$19.2 million in fiscal year 2012, a \$2.5 million increase over the enacted level in fiscal year 2010. The President has also proposed \$6 million in fiscal year 2012 for GHG Standards for Transportation Sources, a \$6 million increase over enacted fiscal year 2010 spending, divided between \$2.0 million to support implementation of GHG standards for passenger cars, light-duty trucks, and medium-duty passenger vehicles and a \$4.0 million increase to support the analysis, development, and implementation of GHG standards for heavy-duty trucks and initial analysis in support of other mobile-source categories such as locomotives, marine, and aircraft engines.
- The President's fiscal year 2012 budget proposes \$10.1 million for a Carbon Capture and Sequestration program to address air and climate-related issues and assist in implementing new federal requirements for underground injection of carbon dioxide. The fiscal year 2012 amount is a \$2.2 million increase of the enacted amount in fiscal year 2010.
- The Air Toxics Initiative, under the President's fiscal year 2012 request, is slated to receive \$26.6 million – an increase of \$5.1 million over the enacted level in fiscal year 2010. The Air Toxics Initiative's increase is split with \$3.7 million targeted at improvements in monitoring capabilities on source-specific and ambient bases as well as improved dissemination of information between EPA offices; state, local and tribal governments; and the public; and the additional \$1.4 million used to develop regulations "to meet court-ordered deadlines, including MACT [Maximum Achievable Control Technologies] standards that have been found deficient by the courts."
- Finally, the President's fiscal year 2012 budget is eliminating funding for Diesel Emission Reduction Act (DERA) Grants. This is a \$60 million change in spending. These grants focus on emission reductions from existing diesel engines through engine retrofits, rebuilds and replacements; switching to cleaner fuels; idling reduction strategies; and other clean diesel strategies.

Water Infrastructure. Under Section 1452 of the Safe Drinking Water Act (SDWA), EPA, through the Drinking Water State Revolving Loan Fund (DWSRF), partners with states willing to provide a 20 percent match to capitalize those states' revolving loan funds. These loans are provided to aid individual water systems within states that have trouble complying with federal drinking water regulations as well as offset costs for meeting the most serious risks to human health. Since its inception in 1997, the DWSRF program has supplied \$21.05 billion to finance 8,358 infrastructure improvement projects.

President Obama has proposed \$990.0 million for DWSRF grants, which is \$550 million less than what was enacted in fiscal year 2010, but \$161 million more than was enacted in fiscal year 2008. In addition, the President's budget proposes that EPA require not less than 10 percent of DWSRF capitalization grant be made available for projects that include "green infrastructure, water or energy efficiency improvements or other environmentally innovative projects."

Superfund. The Comprehensive Environmental Response Compensation and Liability Act of 1980 (CERCLA), also known as "Superfund," was created to help clean up the nation's abandoned and uncontrolled hazardous waste sites. CERCLA separates cleanups into two camps (emergency response/removal and long-term remediation) and determines whether the potentially responsible party (PRP) can be identified to pay for cleanup or whether the Federal government needs to pay because the PRP is unable or unavailable to pay for it. In certain cases when a PRP is known, but recalcitrant, EPA will pay for cleanup and seek cost recovery.

The President's FY2012 budget calls for approximately \$1.236 billion in spending on Superfund – about \$70 million less than what is projected to be spent in fiscal year 2011 and \$18 million less than what was appropriated in fiscal year 2008. Moreover, the President's budget requests a bit less than \$810.7 million for site cleanup, a decrease of more than \$45.3 million from the FY2010 amount. While this "cleanup account" also funds many activities related to the cleanup of hazardous substances, including administration, enforcement, and certain homeland security functions, only a portion of CERCLA funding is for "actual" (i.e., physical) cleanup of contaminated sites – this amount totals \$769.4 million.

Another prominent issue is the adequacy of funding for CERCLA cleanups. Although cost recoveries from responsible parties, fines and penalties, and interest on the unexpended balance of the trust fund continue to contribute revenue to the Superfund program, these sources are small compared to general revenues. A total of \$600 million in additional stimulus funding did not allow EPA to exceed its construction complete goal in FY2009 and EPA actually lost ground in this area in FY2010. Notwithstanding a cutback in proposed cleanup money for sites where a PRP does not exist, the President's budget for fiscal year 2012 recommends reinstatement of dedicated taxes (on petroleum, chemical feedstock, and corporate income) to provide funding for the Superfund program's Trust Fund.

Brownfields. The cleanup of Brownfields sites is funded separately from Superfund. Typically, brownfields are abandoned, idled, or underutilized commercial and industrial properties with levels of contamination much less hazardous than a Superfund site, but that still warrant cleanup before the land can be safe for redevelopment. The President's budget request suggests \$99 million in State and Tribal Assistance Grants for EPA's Brownfields program, to provide grants of no more than \$350,000 per site for planning, contamination assessment, and pollution cleanup; \$49.5 million for categorical grants, to help states and tribes develop and enhance their response programs, and \$26.4 million for cleanup of petroleum contaminated brownfields.

EPA's Homeland Security Activities. Under the Bioterrorism Act of 2002, and Homeland Security Presidential Directives 7, 9 and 10, EPA is the lead federal agency for coordinating security of U.S. water systems, and plays a role in early warning monitoring and decontamination associated with potential attacks using biological, chemical, and radiological contaminants.

The President has requested \$53.326 million for EPA's homeland security activities operated out of five EPA accounts: Science and Technology, Environmental Programs and Management, Superfund, Building and Facilities, and State and Tribal Assistance Grants. This funding, which would support various activities, including critical water infrastructure protection, laboratory preparedness, decontamination, protection of EPA personnel and operations, and communication, is a decrease of \$49.494 million over the FY2010 appropriated level.

Leaking Underground Storage Tank Program. Although the balance of the LUST Trust Fund exceeds \$3 billion, and annual receipts to the Federal Treasury from the 0.01 cent-per-gallon tax on transportation fuels generate between \$180 and \$200 million per year, the President's budget requests just \$112.5 million for the LUST program in FY2012, a decrease of \$0.6 million from the FY2010 appropriation. The President also recommends renewal of the existing 0.01 cent-per-gallon tax on transportation fuels when the tax expires this year. Historically, many state LUST programs report that they are understaffed and underfunded, asking Congress to provide more funds from the LUST Trust Fund to help them address ongoing cleanups and leaking tank sites that require remediation. Mandates for the LUST program in the Energy Policy Act of 2005 also require states to conduct routine inspections, train operators of underground storage tanks, and increase enforcement actions on tank owners and operators who do not comply with the law.

Chemicals Management. EPA's proposed action on chemicals, under the President's budget, represents one of the most robust Agency efforts in years to take actions on chemical substances and mixtures and products with them. EPA will invest an additional \$16 million to continue its *enhanced chemical management* strategy by: 1) obtaining, managing, and making public chemical information; 2) screening and assessing chemical risks; and 3) managing chemical risks. Further, EPA believes many existing ('pre-TSCA') chemicals already in commerce remain un-assessed. The existing chemicals can be split into three major component activities: 1) strengthening chemical information collection, management, and transparency (\$14.7M); 2) screening and assessing chemical risks (\$15.6M); and 3) reducing chemical risks (\$26.4M).

Also in FY 2012, EPA proposes to prevent the entry of new chemicals into the US market which pose unreasonable risks to human health or the environment. The President's budget proposes \$14.3 million for Pre-Manufacturing Notice review and management, which addresses the potential risks from approximately 1,100 chemicals, products of biotechnology and new chemical nanoscale materials received annually prior to their entry into the US marketplace.

In FY 2012, EPA proposes to continue to implement the Chemicals Risk Management program to further eliminate risks from high-risk "legacy" chemicals, such as Polychlorinated Biphenyls (PCBs) and mercury. The Lead program will continue efforts to further reduce childhood blood lead incidence, and will continue implementing the Lead Renovation, Repair and Painting (RRP) Rule through increased outreach efforts and targeted activities to support renovator certifications. EPA will allocate \$35.3 million to undertaking existing chemical risk management actions in FY 2012.

Pesticides. The President's budget for Fiscal Year 2012 proposes \$6.83 billion for pesticide licensing programs in the science and technology area, an increase of \$285 million; \$100.5 Billion for pesticide licensing programs themselves; and \$33.2 million for program implementation and enforcement.

Oil Spill Response. While the U.S. Coast Guard responds to oil spills in coastal and inland navigable waterways, EPA responds to spills that occur on the land as a result of leaking pipelines, accidents in transport, or other events. Appropriations in this account only fund EPA's oil spill response activities. EPA is reimbursed for site-specific response expenses from the Oil Spill Liability Trust Fund, administered by the U.S. Coast Guard. The EPA budget proposes spending \$23.7 million on Oil Spill Response in Fiscal Year 2012.



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SUPPLEMENTAL INFORMATION

History and Mission of EPA

President Nixon established EPA in 1970 in response to growing public concern about environmental pollution, consolidating federal pollution control responsibilities that had been divided among several agencies. EPA's responsibilities have grown as Congress has enacted an increasing number of environmental laws, as well as major amendments to these statutes, over four decades. Annual appropriations provide the funds necessary for EPA to carry out its responsibilities under these laws, such as the regulation of air and water quality, use of pesticides and toxic substances, management and disposal of solid and hazardous wastes, and cleanup of environmental contamination. EPA also awards grants to assist state, tribal, and local governments in controlling pollution in order to comply with federal laws.

President's FY2012 Budget Request

EPA presented its budget request in the form of performance goals, as required by the Government Performance and Results Act of 1993:

- Goal 1: Taking Action on Climate Change and Improving Air Quality;
- Goal 2: Protecting America's Waters;
- Goal 3: Cleaning Up Communities and Advancing Sustainable Communities;
- Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution; and
- Goal 5: Enforcing Environmental Laws.

Related to these goals, the Administration also uses OMB's Performance Assessment Rating Tool (PART) to measure the performance of federal programs.

EPA's FY2012 Budget Request by History and Account

EPA's FY2012 appropriation is allocated among eight line-item accounts. The table below identifies each account, the amounts proposed and enacted for FY2012, and the funding levels enacted from FY2008 through FY2011. A discussion of specific activities and programs funded within each account and relevant issues follow.

(in millions of dollars)

| Appropriations Account | FY2008 Enacted | FY2009 Omnibus Enacted | FY2009 Stimulus (ARRA) Enacted | FY2009 Total Enacted | FY2010 Enacted | FY2011 Annualized Projection Based on Current Funding | FY2012 Proposed |
|-------------------------------|-----------------------|-------------------------------|---------------------------------------|-----------------------------|-----------------------|--|------------------------|
| Science and Technology | \$760.1 | \$790.1 | | \$790.1 | \$848.0 | \$846.0 | \$825.6 |
| + transfer from Superfund | + \$25.7 | +\$26.4 | | + \$26.4 | \$26.8 | \$26.8 | \$23.0 |

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|---|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| account | | | | | | | |
| Science and Technology Total | \$785.8 | \$816.5 | | \$816.5 | \$874.8 | \$874.8 | \$848.6 |
| Environmental Programs and Management | \$2,328.0 | \$2,392.1 | | \$2,392.1 | \$2,993.8 | \$2,993.8 | \$2,876.6 |
| Office of Inspector General | \$41.1 | \$44.8 | \$20.0 | \$64.8 | \$44.8 | \$44.8 | \$46.0 |
| + transfer from Superfund account | + \$11.5 | + \$10.0 | | + \$10.0 | \$9.9 | \$9.9 | \$10.0 |
| Office of Inspector General Total | \$52.6 | \$54.8 | \$20.0 | \$74.8 | \$54.7 | \$54.7 | \$56.0 |
| Buildings & Facilities | \$34.3 | \$35.0 | | \$35.0 | \$37.0 | \$37.0 | \$42.0 |
| Hazardous Substance Superfund | \$1,254.0 | \$1,285.0 | \$600.0 | \$1,885.0 | \$1,306.5 | \$1,306.5 | \$1,236.2 |
| -- transfer to Office of Inspector General | -- \$11.5 | -- \$10.0 | | -- \$10.0 | \$9.9 | \$9.9 | \$10.0 |
| -- transfer to Science and Technology | -- \$25.7 | -- \$26.4 | | -- \$26.4 | \$26.8 | \$26.8 | \$23.0 |
| Hazardous Substance Superfund (Net) | \$1,216.8 | \$1,248.6 | \$600.0 | \$1,848.6 | \$1,269.7 | \$1,269.7 | \$1,203.2 |
| Leaking Underground Storage Tank Program | \$105.8 | \$112.6 | \$200.0 | \$312.6 | \$113.1 | \$113.1 | \$112.5 |
| Oil Spill Response | \$17.1 | \$17.7 | | \$17.7 | \$18.4 | 18.4 | \$23.7 |
| State and Tribal Assistance Grants: Total | \$2,926.2 | \$2,968.5 | \$6,400.0 | \$9,368.5 | \$4,978.2 | \$4,978.2 | \$3,860.4 |
| <i>Clean Water State Revolving Funds</i> | \$689.1 | \$689.1 | \$4,000.0 | \$4,689.1 | \$2,100.0 | \$2,100 | \$1,550.0 |
| <i>Drinking Water State Revolving Funds</i> | \$829.0 | \$829.0 | \$2,000.0 | \$2,829.0 | \$1,387.0 | \$1,387.0 | \$990.0 |
| <i>Special Project</i> | 132.9 | \$145.0 | \$0 | \$145.0 | \$156.8 | | |

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|--|------------------|------------------|------------------|-------------------|-------------------|-------------------|------------------|
| <i>Grants</i> | | | | | | | |
| <i>Brownfields (CERCLA Section 104(k)) Grants</i> | \$93.5 | \$97.0 | \$100.0 | \$197.0 | \$100.0 | \$100.0 | \$99.0 |
| <i>Diesel Emission Reduction Grants</i> | \$49.2 | \$60.0 | \$300.0 | \$360.0 | \$60.0 | \$60.0 | \$0 |
| <i>Other STAG Grants</i> | \$54.2 | \$53.5 | \$0 | \$53.5 | \$50.0 | \$50.0 | \$20.0 |
| <i>Categorical Grants</i> | \$1,078.3 | \$1,094.9 | \$0 | \$1,094.9 | \$1,116.4 | \$1,116.4 | \$1,201.4 |
| <i>Rescission of Previously Appropriated EPA Funds</i> | (\$5.0) | (\$10) | | --(\$10) | (\$40) | (\$40) | (\$50) |
| Total EPA Accounts | \$7,461.5 | \$7,635.7 | \$7,220.0 | \$14,855.7 | \$10,299.9 | \$10,297.7 | \$8,973.0 |

Source: Prepared, in part, by the Congressional Research Service (CRS). Numbers may not add due to rounding.

Environmental Programs and Management (EPM)

This account reflects the heart of the agency's regulatory, standard-setting, and enforcement efforts for various media programs such as water quality, air quality, and hazardous waste management. Appropriations within the EPM account fund the development of environmental standards, monitoring and surveillance of pollution conditions, federal pollution control planning, technical assistance to pollution control agencies and organizations, and compliance assurance and assistance. Many complex regulatory/standard setting issues are associated with this account.

Science and Technology (S&T)

The S&T account provides funding for developing the scientific knowledge and tools necessary to support decisions on preventing, regulating, and abating environmental pollution. It also supports efforts to advance the base of understanding for environmental sciences. These activities are conducted through contracts, grants, and cooperative agreements with universities, industries, other private commercial firms, nonprofit organizations, state and local government, and federal agencies, as well as through work performed at EPA laboratories and various field stations and offices. Recent congressional debate regarding the funding for scientific research administered by EPA and other federal agencies has often focused on the question of whether these agencies' actions are based on "sound science," and how scientific research is applied in developing federal policy.

State and Tribal Assistance Grants

Historically, the STAG account has represented the largest portion of EPA's annual appropriation, and has comprised about 40% of the agency's total budget. A large share of the funding is for the SRFs for clean water and drinking water projects. The *clean water* SRF provides funds for wastewater infrastructure, such as municipal sewage treatment plants. The *drinking water* SRF provides funds for drinking water treatment facilities and other projects needed to comply with federal drinking water requirements. The remainders of the STAG account funds other water infrastructure grants, categorical grants to states and tribes for numerous pollution control activities, grants for the cleanup of brownfields, and grants for clean school buses.

Categorical Grants

EPA categorical funds are generally distributed through multiple grants to support various activities within a particular media program (air, water, hazardous waste, etc.). These grants are used by states to support the day-to-day implementation of environmental laws, including a range of activities such as monitoring, permitting and standard setting, training, and other pollution control and prevention activities. Grant funding is also used for multimedia projects such as pollution prevention incentive grants, pesticides and toxic substances enforcement, tribal assistance, and environmental information.

EPA's FY2012 budget justification had presented 20 categorical grant programs in several sub-categories: air and radiation, water quality, drinking water, hazardous waste, pesticide and toxic substances, and multimedia. Examples of grants within these subcategories include air quality grants to support radon and National Ambient Air Quality Standards (NAAQS) monitoring and data collection programs, water quality grants to support implementation of non-point source management programs, grant assistance for development and implementation of hazardous waste and underground injection control programs, pesticide program implementation and pesticide enforcement, and pollution prevention incentive grants.

Office of Inspector General

The primary function of this independent office within EPA is to audit and investigate EPA functions; to identify management, program, and administrative deficiencies which may create conditions for instances of fraud, waste, and mismanagement of funds; and to recommend actions to correct these deficiencies.

Buildings and Facilities

This account funds repairs, improvements, extensions, or alterations of buildings, facilities, or fixed equipment. It also funds new construction projects.